

NYT

July 26, 1982

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Hillenkoetter's Lawful Resort to Covert Action

To the Editor:

I have recently been shown your obituary article on Vice Admiral Roscoe H. Hillenkoetter (June 22), which contains a seriously misleading statement.

The article says that after the admiral became Director of Central Intelligence in 1947, his counsel rendered an opinion that there was no legal authority for the Central Intelligence Agency to carry out "covert activities" but that nevertheless the Director proceeded to do so.

I was general counsel at the time, and when the admiral requested my opinion, I first stated that in our governing legislation, the National Security Act of 1947, I could find no specific statutory language authorizing the conduct of covert operations, as opposed to intelligence activities.

The Director then asked me if there were other considerations, and I wrote an opinion that if the President, with his constitutional responsibilities for the conduct of foreign affairs, gave the agency appropriate instructions and if Congress gave it the funds to carry them out, the

agency had the legal capability of carrying out the covert actions involved.

The National Security Council, of which the President is chairman, then promulgated the required directives, and Congress appropriated the funds to carry them out.

Admiral Hillenkoetter never ignored or tried to influence any of my legal opinions, nor would he knowingly have acted contrary to law.

LAWRENCE R. HOUSTON
Washington, July 9, 1982

*given to me by Walter
Pforzheimer*

Arthur Darling Interview with Adm. Hillenkoetter, Oct/
Dec 1952
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perhaps it is irrelevant, but in 1952 Hillenkoetter emphatic
in his opinion that Agency should have little to do w/
covert action. Says guerrilla tactics should be kept
as far away from clandestine intell collection as possible.

discussion during creation of CIG in early 1946 envisioned intell. agency in terms of coordination role.

in 1947, debates in Cong. on CIA assumed only a coordination role plus intelligence collection (both overt and covert) and analysis.

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on Nov. 24, 1947, HST assigns psychological warfare coordination to Sec. of State. Sec of State Marshall protests vehemently, and 3 weeks later, HST reversed himself and on Dec. 14, the NSC adopted NSC 4/A, which gave CIA resp. of covert psychological operations.

this occurred despite Hillenkoetter's conviction that such activities were rightly mil in nature and therefore should be carried out by a component of the JCS. Hillenkoetter furthermore believed that psychological warfare activities needed both cong. approval and cong-authorized funding. But Hillenkoetter's feelings ignored.

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22 Feb 49

WLP met w/ Sen. McClellan, chair of Sen. Committee on Expenditures in the Exec. Depts, and Rep. Dawson, chair of the House committee on Expenditures, re Hoover report on the National Security Organization. See memo to DCI, this date

20 Apr 48 -- DCI has instructed me to refuse to deliver to Congressmen Hoffman, chair of House Comm on Expenditures, any copies of Security Council directives. If Hoffman again asks for a copy of NSCID No. 2, he is to be informed that any request must be in writing and should be addressed to NSC as we operate under its direction and are w/out authority to release said info.



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1 Mar 48 -- delivered monthly personnel figures to Sen. Byrd. Byrd showed me the current report in proof, in which a footnote to the figures of the NSC indicated "exclusive of CIA personnel." A few lines further down, following the word "others," were the CIA figures. I told Byrd my feeling that this was a definite breach of security, esp. as there was no ready answer to an inquiry as to what "others" were. He said no one could tell from this that they were CIA figures, and I said I thought it was reasonably obvious. He then called in Mr. Bell of his staff to indicate our opposition and to see whether some other arrangement could be made. I pushed for their total elimination. I also recommended that Gen. Wright or DCI call Byrd in the next 24 hrs in an attempt to kill the entire figure.

11 Feb 1948 -- Sen. Byrd has requested a meeting bet. a rep. of his Jt. Comm. on Reduction of Nonessential Federal Expenditures, BOB, Civil Service Commission, and CIA. I have recommended to Col. Shannon, Capt. Ford and Gen. Wright that nothing could be served by such a meeting, which would result in BOB and ourselves lining up vs. the Civil Service Commission and the Byrd Comm, and that DCI arrange for a personal appointment w/ Byrd to discuss the matter. Byrd and DCI met on 16 Feb.

11 Dec 1947

J.R. Blandford, General Counsel, House Mil Aff Comm, said that Subcomm # 3 was charged w/ keeping itself closely informed on the plans and operations of CIA, and that members of the Subcomm felt that they would like to talk w/ DCI. He stated that they would like to come down to CIA and that it might be politic to invite them to lunch, followed by a round table discussion w/ the DCI. He stated further that it might be a good idea if the DCI took the initiative and wrote a letter to the Chairman, inviting him and Mr. Vinson, the ranking minority member, and the members of the Subcomm for a visit.

4 Dec 1947

conferred w/ Col. Edwards re I & S paper on distribution of CIA material to the Congress. Informed him that the OGC could not concur w/ paper as written and suggested certain changes.

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13 August 1947

"Discussed w/ George Moore, Gen Counsel, House Civil Service Comm, the clearance of certain personnel on the list furnished by him on 20 May 47. He indicated that the FBI had secured from the Comm all the info in its possession in each case. He further stated that the Comm would be interested to know on what basis we had cleared personnel on this list. I told him that the records in each case were not available to him."

*There are numerous contacts about the autumn of '47 w/ George Moore, pertaining to personnel matters. Ask abt. this.
One of the continuing Qs concerned personnel strength of CIA.*

5 Oct. 1947, Sunday

"Spent some time in the Library of Congress reading on law & Congressional immunity."

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Arthur Darling interview w/ Lawrence Houston, 1953
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Houston wrote a memo [redacted] on Sept 14, 1948, re a proposed amendment of the Espionage Act. The prob was to give such agencies as CIA and FBI stronger control over their personnel and others who might betray them. The difficulty was that the established law regarding "intent to injure" could not be removed. the whole plan for r-vision ran in to a decision of the Sup Ct on civil liberties and the country's tradional freedoms. but the real barrier to any revision was political--Cong would not agree to any tightening of the act.

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for several yrs prior to Smith's coming on board in Oct 1950, ORE has accepted and honored requests for estimates from NSC and from its departmental members. and the finished reports were all "customarily" distributed, "broadly and in quantity," to the entire group of depts and agenceis represented on the NSC and the IAC, and occasionally to non-IAC agencies as well. [this says nothing abt Cong-I need to find out]

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[] Task Force on abt. Nov 15, 1948 submitted a
Confidnetial report to Hoover Commission entitled "The
Central Intelligence Agency, National and Service Intelli-
gence," which compirsed 2nd chap. (pp. 25-60) of a longer
report (c. 250 pp) on the "National Security Organization."
++++a copy of chap. 2 is on file in O/DCI/ER

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this 250 page report transmitted to Cong by Hoover on
Jan 13, 1949 and remained unpublished. It should not be
confused w/ a briefer, unclassified report, also entitled
"Nat. Sec. Organization" (121 pp), published by Hoover
Commission as Appendix G of its reports, nor w/ the Hoover's
Commmission's own report to Cong, also entitled "The
Nat Sec Organization" (30 pp).

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applauds as "sound" the practice of withholding details on budgetary matters from Bureau of the Budget and from Cong., but recommends more direct hand by NSC in reviewing CIA's budget in order to justify exclusion of Cong and BOB.

NSC was to serve as buffer bet Agency and Cong. Whenever Cong asked DCI for info, "it should be established practice for him to refer the Q to the Nat Sec Council in order that it may determine whether or not disclosure is in the public interest."

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Arthur Dalring Interview w/ Hillenkoetter, Oct/Dec 1952
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Hillenkoetter again expresses his oppositon to having Agency engaged in covert operations. But adds he had not been given any choice on this; he had been overridden by NSC.

CIA's good relations w/ Cong at this pt was one of the reasons behind NSC actions in this regard. CIA engoyed good relations w/ Co ng and could get money more easily than State.

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